

THE LAW OFFICE OF

**ELISA HYMAN, P.C.**

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December 16, 2021

**BY ECF**

Honorable Paul E. Engelmayer  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: *M.K., et al. v. New York City Department of Education, et al.*,  
20-cv-4321 (PAE)

Dear Judge Engelmayer:

I represent the Plaintiffs in the above-referenced case and write jointly with Defendants to respectfully request a *nunc pro tunc* extension of time to complete discovery and an adjournment of the upcoming court conference. Pursuant to the Case Management Plan ("CMP"), fact discovery closed November 30, 2021. ECF No. 40. The Court previously set January 4, 2022 as a case management conference date. *Id.* The parties apologize to the Court for making this request to extend discovery after the fact, but the parties are hopeful that this case can be resolved via settlement.

During the summer, the parties were engaged in settlement discussions, and Plaintiffs requested service accounting information to further those discussions.<sup>1</sup> Due to an oversight by defense counsel, who had received the accounting information from the New York City Department of Education but inadvertently failed to forward it to Plaintiffs, Plaintiffs did not receive the accounting information, which also needs to be updated, until yesterday, December 14, 2021. Defendants need additional time to update the accounting information and Plaintiffs need time to review all of it and craft a formal settlement demand. The parties are also still investigating E.K.'s transcript issues, which need to be resolved as part of any settlement.

In light of the above, the parties respectfully request a 90-day extension of time to complete discovery – from November 30, 2021 to February 28, 2022. The parties propose submitting a status report no later than January 14, 2022. At that time, the parties should be in a good position to inform the Court whether this case is on a settlement track or whether the parties are finalizing discovery and moving forward with litigation.

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<sup>1</sup> In order to comply with the CMP, the parties agreed to a short extension of time to serve their initial Requests for Production of documents ("RFP"). Plaintiffs then served Defendants with their RFP on July 30, 2021, and Defendants will provide responses by January 5, 2022.

Thank you for Your Honor's consideration of the above requests.

Sincerely,

*Erin O'Connor*

Erin O'Connor, Esq., Of Counsel  
Counsel for the Plaintiffs

Cc: Philip Frank, Esq., Assistant Corporation Counsel (via ECF)

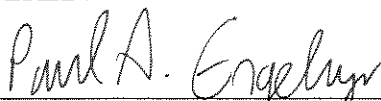
On May 4, 2021, the Court issued a civil case management plan, setting a deadline for fact discovery of November 30, 2021. Dkt. 40. At the initial pretrial conference, the Court told the parties that further extensions should not be expected due to the long time horizon.

Given counsel's surprising and disappointing oversight, the Court, reluctantly, grants a *nunc pro tunc* extension until December 31, 2021, to complete discovery, to avoid prejudicing the parties in this case. The Court does not find that nearly ten months of discovery is warranted. No further extensions will be granted absent extraordinary circumstances.

The parties are reminded that, at any time, they may request a referral to Magistrate Judge Gorenstein for settlement.

The case management conference previously scheduled for January 4, 2022, at 2 p.m. is hereby adjourned until January 20, 2022 at 3 p.m.

SO ORDERED.



PAUL A. ENGELMAYER  
United States District Judge  
12/16/21